

## **REMARKS**

### ***Amendment to the claims***

Claim 1 has been amended without prejudice to recite preferred embodiments of applicants' invention that are more clearly differentiated from the prior art.

Specifically, claim 1 now incorporates the limitations recited in original claims 2 and 4 and previously presented claim 3. In addition claim 1 further specifies that:

- the container lid to which the invention pertains is a two-step container lid that may be used in situations where a container is covered with a cover foil at the level of the container rim as is disclosed at page 1, lines 23 – 32.

- the rim of the container has a recess as disclosed on page 2 and labeled as item 8 in Figures 1 and 5.

- the one or more bridges (5) or partial bridges (9,10) prevents the container rim from entering the recess (8) of the lid rim (2) of the two-step container lid when the container is re-closed. This functionality of the bridges is disclosed on page 2, lines 20-24.

Claims 2-4 have been cancelled without prejudice.

### ***Claim Rejections – 35 USC § 102***

Claims 1, 2, 5 and 7-9 were rejected under 35 USC §102(b) as being anticipated by Davis (US 4,076,123). Applicants traverse this rejection.

Applicants' invention is directed to an improved two-step container lid. As explained on page 1, lines 23-32, their two-step container lid (Figure 1) can be used with containers that have a foil covering the top of the rim of the container because no part of the container lid is required to sit within the container below the top of the container rim. In contrast, a one-step container lid (Figure 2) can not be used to seal a container that has a foil seal at the top of its rim because part of the lid must necessarily penetrate to below the interior of the container rim in order for the lid to seal.

Applicants' invention solves a problem they have observed with two-step containers, namely that once the foil is removed, the container can be difficult to re-close, especially with one hand, because the rim of the container gets stuck in the recess of the lid rim. Applicants have solved this problem by incorporating specific types of bridges in the lid rim (Item 5 - Figure 3 or item 9 and 10 – Figure 5) making it no longer possible for the container rim to enter the recess of the lid rim. Since the recess in the lid rim is not involved in the sealing of the lid to the container, this modification avoids the re-closure problem without a negative impact on the sealing mechanism.

Davis is directed to a disposable plastic lid designed to stack with other substantially identical lids without compacting. Comparing analogous elements of Davis with applicants elements, at least the following elements are not disclosed by Davis:

- Davis does not disclose "a two-step container lid that may be used in situations where a container is covered with a cover foil at the level of the container rim". Davis states at column 2, lines 27-31 that "The lid of the present invention is provided with a circular closure wall and a depending skirt. A rim cavity is formed at the junction of the circular wall and skirt, which receives the container rim to form a seal when the lid is placed on the container". This description together with Davis - Figure 3 indicates that the Davis lid is a one-step container lid (compare Davis Figure 3 with applicants Figures 1 - two-step lid and applicants' figure 2 – one-step lid). Thus, the Davis lid would not be suitable for containers having a foil over the top of their rim because element 22 (figure 3) has to be below the top of the container rim for the lid to seal the container.

- Davis does not disclose a "lid rim that comprises one or more bridges (5) connecting the mirror (3) and the outer part (4), wherein the one or more bridges is either at the same level as the mirror (3) or is a partial bridge consisting of two bridge parts (9,10), each being an indentation of a side wall of the lid rim (2), said indentation being formed by placing part of the side wall at a negative angle, compared to the side wall at a place where there is no bridge and wherein the one or more bridges (5) prevents the container rim from entering the recess (8) of the lid rim (2) of the two-step container lid when the container is re-closed".

The examiner asserted that the bosses (24) disclosed by Davis are bridges in the sense used by applicants. Applicants disagree. The bosses neither incorporate the same structural features nor perform the same function as applicants' bridges. Davis states at column 1, lines 34-43 that "Extending upwardly from the trough are symmetrically spaced bosses which are wider than the trough so as to extend into the parallel ribs. When like ribs are stacked one upon the other in the upright position, the

upwardly extending bosses in the lower lid engage the bottoms of the parallel ribs of the next upper lid in the stack to prevent the lids from compacting or jamming together. Consequently they are easily separated for use”.

Inspection of Figure 2 of Davis indicated that the top of the boss neither forms a bridge which is at the same level as the mirror nor does the boss form a partial bridge consisting of two bridge parts (9,10), each being an indentation of a side wall of the lid rim.

Furthermore, according to Davis the bosses are designed to align and lock together the lids and when stacked. The bosses can not prevent a container rim from entering the recess of the rib structure because again referring to Figure 2 of Davis, the bosses are themselves recessed and do not provide any barrier at the bottom of the recessed rib structure.

Absent disclosure of a two-step container lid and lid rims comprising bridges having the structure recited by applicants and preventing the container rim from entering the recess in the lid rim, Davis could not anticipate applicants' claims.

Neither does the reference render the claims obvious. Davis is concerned with a totally different type of lid than applicants (one step) and is directed to a totally different problem (orderly stacking of lids). Absent a disclosure of the above cited key elements, the reference does not present a *prima facie* case of obviousness.

In view of the above amendments and remarks, applicants respectfully request that the 102 (b) rejection of claims 1, 2, 5 and 7-9 over Davis (US 4,076,123) be reconsidered and withdrawn.

Claims 1, 2 and 5-7 were rejected under 35 USC §102(b) as being anticipated by Hurtt (US 3,474,928). Applicants traverse this rejection.

Hurtt is directed to a container having snap fastening means, strengthening ribs and locating ribs on the top lid that allow containers to be stacked. Comparing analogous elements of Hurtt with elements recited in applicants' claims, at least the following elements are not disclosed by Hurtt:

- Hurtt does not disclose "a two-step container lid that may be used in situations where a container is covered with a cover foil". The closure mechanism disclosed by Hurtt is shown in Figure 5 and described at column 2, lines 37-44. It is seen from Figure 5 that the protruding edge of the container body 22 sits in the recess of the rim of the cover and that a part of the cover (e.g., 22 and 14b) sits inside and below the top of the rim of the container body when the container is sealed. The Hurtt cover is therefore a one-step lid container and would not be suitable for containers having a foil over the top their rim (compare Figure 5 of Hurtt with applicants' Figures 1 and 2).

- Hurtt does not disclose a lid rim positioned near to the edge of the container having a recess (8) and comprising one or more bridges (5) connecting the mirror (3) and the outer part (4), ..... wherein the one or more bridges (5) prevents the container rim from entering the recess (8) of the lid rim (2) of the two-step container lid when the container is re-closed".

The examiner asserted that the “arcuate locating tabs” (28) disclosed by Hurtt constitute a “lid rim” and the spaces between the locating tabs are “bridges” in the sense used by applicants. Applicants disagree. The locating tabs (28) do not have an analogous structures to applicant’s lid rim nor does the spaces between the locating tabs perform an analogous function as applicants’ bridges.

Firstly, the locating tabs (28) are solid structures and thus are not a rim that comprises a recess (see Hurtt Figure 5).

Secondly the function of the locating tabs is to vertically align the centers of gravity of the containers thus preventing tipping during vertical storage (Figure 4 and column 3, lines 36-45). The space between the locating tabs which the Examiner has asserted is equivalent to applicants’ bridges could not prevent the container rim from entering the recess of the lid rim because the locating tabs are not a recessed structure. Since the spaces between the locating tabs have no mechanical communication with any other recesses present in the Hurtt lid, they could not prevent the rim of the Hurtt container body from entering any other recess present in the Hurtt container lid.

Absent disclosure of a two-step container lid suitable for sealing containers having a foil at the top of their rim, and recessed lid rims comprising bridges that prevent the container rim from entering the recess in the lid rim, Hurtt could not anticipate applicants’ claims.

Neither does the reference render the claims obvious. Hurtt is concerned with a totally different type of lid than applicants (one step) and is directed to a different set of

problem (orderly and stable stacking of containers). Absent a disclosure of the above cited key elements, the reference does not present a *prima facie* case of obviousness.

In view of the above amendments and remarks, applicants respectfully request that the 102 (b) rejection of claims 1, 2 and 5-7 over Hurtt (US 3,474,928) be reconsidered and withdrawn.

### ***Claim Rejections – 35 USC § 103***

Claim 1, 3 and 4 were rejected under 35 USC 103(a) as being unpatentable over Mahaffy et al (US 3,883,036) in view of Edwards (US 3,321,104). Applicants traverse this rejection.

Mahaffy et al disclose a plastic snap on cover which has a central panel with a raised annular ring (16) about the edge of the panel. Notches in the ring (20) serve to furnish an anti-locking mechanism for stacking the lids (Fig 7) as well as providing an anti-sloshing feature to the ring when the lid is used as a coaster. The skirt (5) of the snap-on lid has an inner elongated arcuate shaped land to provide a nesting and anti-shift feature to the detent means of the snap on lid (abstract interpreted with the aide of the description and figures).

A comparison of Figures 1-3 of Mahaffy et al with applicants description of a two step container lid (page 1 and Figure 1) indicates that the Mahaffy et al lid is a two-step container lid.

Edwards is directed to a stackable non-nesting one piece thermoplastic closure for use with the open mouth of a complementary container body and having means incorporated therein permitting unimpeded sliding removal of individual lids from the stack (abstract). With reference to Edwards, Figures 1-5, this unimpeded sliding is the achieved by incorporating a "circumferentially extending groove (22) which is spaced downwardly from the cover wall (16) and radially inwardly of the depending skirt portion (18)" (Column 3, lines 11-15 emphasis added).

A comparison of Figure 2 of Edwards with applicants' description of a one-step container lid (page 1 and Figure 2) indicates that the Edwards lid is a one-step container lid.

Applicants submit that at least the following key elements recited in their claims are not disclosed by the combination of Mahaffey et al and Edwards when analogous features of the container lids are compared:

- Neither of the lids disclosed by Mahaffey et al or Edwards are two-step container lids that can be "used in situations where a container is covered with a cover foil at the level of the container rim". Although the container lid disclosed by Mahaffey et al is a two step container lid, the outer "arcuate bead" (17) of Mahaffey et al, which corresponds to applicants "outer part" (4) sits below the rim of the container when the container is sealed as is seen in Figures 2 and 8 of Mahaffey et al. Similarly, the "circumferentially extending groove (22) of the Edwards one-step container lid sits below the rim of the container when the container is sealed as is seen in Edwards et al Figures 2 and 5.

- Neither Mahaffey et al or Edwards disclose "bridges that are either a complete bridge at the same level as the mirror as depicted in applicants' Figure 3 or a partial



bridge having two bridge parts (9,10), each being an indentation of a side wall of the lid rim formed by placing part of the side wall at a negative angle, compared to the side wall at a place where there is no bridge (2)" as is depicted in applicants' Figure 5.

Mahaffy et al discloses an indentation or notch (20) which spans a portion of the recess of the rim. However, this notch does not connect the mirror (3) and outer part (4) at the same level as the mirror (4) nor is it a partial bridge having two bridge parts (9,10), each being an indentation of a side wall of the lid rim formed by placing part of the side wall at a negative angle.

The Examiner asserts that "Edwards teaches a recessed segment having a two-part formation with negative angles (Figure 5, 26b) thereby providing stabilized structure for a lid. Therefore it would have been obvious to one of ordinary skill in the art to modify Mahaffy et al with the negative angle bridge portion in order to provide an alternative structure to said lid." Applicants submit that the "circumferentially extending groove" disclosed by Edwards (22b) is not analogous to applicants partial bridge because it does not reside in the lid rim (the rim of the Edwards lid is element 14), and is not a partial bridge because element 28b is continuous. The profile of the Edwards groove in fact has an almost a mirror image to the profile of applicants partial bridge as can be seen by comparing Figure 5 of Edwards to applicants' Figure 5.

Furthermore, the Edwards groove is a contiguous and uniform structure having the same profile at all locations. Thus, the profile of the groove can not meet the structural requirement of applicants' partial bridge, namely that it be an indentation of the lid rim formed by placing part of the side wall at a negative angle, compared to the side wall at a place where there is no bridge.

Furthermore, even if the groove disclosed by Edwards was incorporated in the lid according to Mahaffey et al, the combination of features placed in analogous locations would only further ensure that the lid so derived would not be suitable for use in situations where a container is covered with a cover foil at the level of the container rim, i.e., it would not perform a key function of applicants' invention recited in claim 1.

- Neither Mahaffy et al or Edwards discloses one or more bridges (5 or 9,10) that "prevents the container rim from entering the recess (8) of the lid rim (2) of the two-step container lid when the container is re-closed". The notch disclosed by Mahaffy et al will not eliminate the jamming of the container rim in the recess of the lid rim because inspection of Figure 2 of Mahaffy et al indicates that the widest lateral opening of the recess in the notch (space between feature 32 and 34) is greater than the width of the container rim (3). Consequently, the container rim can enter part of the recess and get stuck when the container is re-closed – a problem which applicants' lid is specifically designed to avoid. Modifying Mahaffy et al with the groove disclosed by Edwards (22b) would still leave this recess partially accessible to the lid rim.

Absent a disclosure of the above cited elements of applicants' claims, the combination of Mahaffy et al and Edwards do not present a *prima facie* case of obviousness.

In light of the above amendments and remarks, applicants respectfully request that the 103 rejection over Mahaffy et al (US 3,883,036) in view of Edwards (US 3,321,104) be reconsidered and withdrawn and that the application be allowed to issue.

If a telephone conversation would be of assistance in advancing prosecution of the subject application, applicants' undersigned agent invites the Examiner to telephone him at the number provided.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Michael P. Aronson", is written over a horizontal line.

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